

## Bureau of Land Management, Interior

## §9185.3-1

to be public land of the United States and subject to survey and administration as such, and that any protest against the proposed survey should be filed with the appropriate State Director. It must be shown what particular surveyed lands opposite the island, or adjoining the unsurveyed land, are owned by the adjacent land owner on whom the notice is served.

(c) *Evidence required as to character of land in existence at time of original survey.* An application for the survey of an island or other land omitted from the original survey must be accompanied by evidence showing that the land was in existence and above ordinary high-water elevation when the State was admitted into the Union, and when the adjacent lands were surveyed. Such evidence should consist of statements from at least two persons familiar with the land, as to its size, elevation, and appearance, and the species, size, and age of the timber growth thereon, or nature of other vegetation.

(d) *Diagram required with application.* A diagram showing the approximate configuration of the island or other land applied for, and its location with reference, to the public land surveys, must accompany the application.

(e) *Cost of survey.* In the event of approval of the application, the costs of the survey will be borne by the Government.

(f) *No preference right.* Should the island or other land be surveyed as public land, no preference right to acquire the same under the laws governing the disposal of public lands will be gained by the filing of the application for survey.

[35 FR 9798, June 13, 1970, as amended at 44 FR 41795, July 18, 1979]

### §9185.2-3 Unsurveyed islands and omitted lands.

(a) Section 211(a) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2758), provides for the conveyance under the Recreation and Public Purposes Act of unsurveyed islands determined by the Secretary to be public lands of the United States. The conveyance of any such island may be made without survey; however, such island shall be surveyed at the request of the qualified applicant. If the applicant re-

quests that a survey be executed, the applicant shall be required to:

(1) Furnish a written statement identifying his choice of donation of money, services, or both for the survey.

(2) If the applicant elects to donate money, such donation shall equal the Bureau of Land Management's estimated cost of survey. The donated money shall be credited and expended in accordance with section 307(c) of the Act. A written estimate of such costs shall be furnished to the applicant by the Bureau.

(3) If the applicant elects to donate services, such services shall be conducted and performed pursuant to the criteria established by the Director of the Bureau of Land Management.

(b) Section 211(b) of the Act, provides for conveyance, under the Recreation and Public Purposes Act (43 U.S.C. 869), of lands other than islands determined by the Secretary by survey to be public lands of the United States erroneously or fraudulently omitted from the original surveys. An applicant may be required to donate money, services, or a combination thereof for such survey. The procedures contained in §9185.2-3(a) of this title shall be followed.

[44 FR 41795, July 18, 1979]

### §9185.3 Requirements for resurveys; without cost to applicant.

#### §9185.3-1 Eligibility.

(a) *Determined by ownership of land.* As a general rule, and in the absence of any particular governmental purpose to be subserved, no township is eligible for resurvey unless title to at least 50 percent of the area of the lands embraced therein remains in the United States. For the purpose of determining the eligibility of a township under this rule, lands covered by approved selections, school sections, and entries upon which final certificates or patents have been issued are to be considered as alienated lands. Townships within the primary limits of railroad land grants are generally ineligible.

(b) *Determined by physical character of remaining public land.* In general no resurvey will be undertaken unless the preliminary examination of the township develops evidence of existing settlement and agricultural possibilities